

Subject: Re: Nugget 30 (b)(6) Depositions

From: "Michael W. Sewright" <mws@bpbk.com>

Date: Wed, 01 Feb 2006 19:22:02 -0900

To: Tom Krider <Krider@OLES.com>

CC: "Steven J. Shamburek" <shamburek@gci.net>, "Herbert A. Viergutz" <barmar@gci.net>, Paul Stockler <paulstockler@aol.com>, Pat Stoll <cps@hvslaw.com>, Traeger Machetanz <machetanz@oles.com>

Tom:

My email yesterday which you say Traeger forwarded to you also asked when specific, way overdue discovery documents and information ordered by the court on January 18 and not restricted to recommencement of the Rule 30(b)(6) deposition are going to be provided. On January 18 your firm promised compliance and I advised in writing that I expected that discovery no later than Monday, January 30, 12 days after the Court's order. I agree with Mr. Shamburek in his recent email that that production of documents, those interrogatory answers, and identifications ordered by the Court and delayed by Nugget over two months already should be ready at least by this Friday. Let us know that will happen. There are other fast approaching deadlines in this case.

The Court's Order (Clerk's Docket No.430) was emailed by the court to Mr. Machetanz on January 18, the same time as the rest of us, and Ms. Ho also had it, because she emailed us that afternoon that Nugget was gathering the ordered documents and information. The October 20, 2005 notice of 30(b)(6) deposition was served that day on your office and is also attached as Exhibit 3 to North Star's December 14, 2005 Motion to Compel Discovery which the Court granted "in its entirety". Docket No. 430 at 2. The remaining areas of inquiry and persons to be produced, including John Terwilliger, have already been delineated and ordered. Traeger has that information, and also a copy of the last 30(b)(6) deposition of Mr. Smithson. Get them from him or your office. You should be going to them.

I can not say how long it will take to complete the deposition without first seeing the documents and information already ordered. Nor can I speak for the questioning of other counsel. We should start in the morning.

I will contact Jack Goodwill, as he was part of North Star's management and there is an attorney-client relationship, but that deposition will have to come after completion of the 30(b)(6) deposition already ordered by the court. According to Mr. Viergutz's email today we should be looking at the 16th and 17th, if you can get out of your meeting. Otherwise, should we be looking at the next week? Mr. Viergutz and Mr. Shamburek advise they are both available that week, and I can be.

Please advise.

Tom Krider wrote:

Mr. Sewright,

Traeger forwarded to me your e-mail regarding continuation of the Nugget 30(b)(6) deposition, as I will now be handling the case for Nugget. First, because I am in Seattle and Gloria is now out of the office, it would be helpful if you could send me a copy of the deposition notice you are looking to re-commence and to let me

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know which areas of inquiry have not been concluded. That way, I can be sure to have the right person(s) available. As for the 16th, I am available that day, although I have to be in Seattle Friday for a morning meeting. Do you have a sense for how much time you will need to conclude the deposition?

On a similar vein, I would like to take Jack Goodwill's deposition in this same timeframe. I understand that he no longer works for North Star, so I wanted ask whether you are in a position to arrange for his appearance, or if we need to subpoena him. Please let me know your position on this issue. Thanks.

Thomas R. Krider
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Subject: Financial and Insurance Docs and Identification, Additional Discovery Responses
From: "Michael W. Sewright" <mws@bpk.com>
Date: Tue, 31 Jan 2006 17:02:17 -0900
To: Traeger Machetanz <machetanz@oles.com>
CC: Steve Shamburek <shamburek@gci.net>, Herbert Viergutz <barmar@gci.net>, Paul Stockler <paulstockler@aol.com>

Traeger:

The Stipulated Protective Order was returned to me yesterday with all signatures (thanks to everyone for getting right on it) and was filed with the court today, Docket #427. Are the financial and insurance documents and information, identification of broker, and additional discovery responses ordered by the court ready yet?

Also, what date can we schedule re-commencement of the Rule 30(b)(6) depo of Nugget, including John Terwilliger, for? I'm thinking February 16 here. Is that okay with everyone else who plans to attend?

Please advise ASAP. Thanks.
- Mike

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Subject: [Fwd: [Fwd: Re: Nugget 30 (b)(6) Depositions and Discovery documents]]
From: "Michael W. Sewright" <mws@bpc.com>
Date: Wed, 08 Feb 2006 11:59:44 -0900
To: Tom Krider <Krider@OLES.com>
CC: Steve Shamburek <shamburek@gci.net>, Herbert Viergutz <barmar@gci.net>

Tom: Are you going to respond to my two emails dated February 6 and repeated below, including confirming depositions and dates for February 22-23 so Steve and I can notice them up? Thanks. - Mike

----- Original Message -----

Subject: [Fwd: Re: Nugget 30 (b)(6) Depositions and Discovery documents]
Date: Mon, 06 Feb 2006 18:03:39 -0900
From: Michael W. Sewright <mws@bpc.com>
To: Tom Krider <Krider@OLES.com>
CC: Steve Shamburek <shamburek@gci.net>

Tom, thinking more about the situation, I realize I have to have all insurance policies for the 1996-present period ordered by the Court by no later than this Wednesday, so I can have them reviewed in time, so please call your client and the broker right away about that and let me know. I have to have the rest of the financial and tax docs requested by the discovery requests and ordered by Judge Holland no later than Thursday, so let me know about that too. I understand you don't need to preview them, and it's been 20 days since Judge Holland's Order compelling their production. Thanks, Mike.

----- Original Message -----

Subject: Re: Nugget 30 (b)(6) Depositions and Discovery documents
Date: Mon, 06 Feb 2006 17:40:25 -0900
From: Michael W. Sewright <mws@bpc.com>
To: Tom Krider <Krider@OLES.com>
CC: Steven J. Shamburek <shamburek@gci.net>, Herbert A. Viergutz <barmar@gci.net>, Paul Stockler <paulstockler@aol.com>, Pat Stoll <cps@hvsllaw.com>
References: <27EA372D6BF48F4E9236E3C31D6AF4F70A3D6F@olesmsg1.oles.tld>

Tom,

Thanks for calling awhile ago and letting me know the types of financial and insurance documents you reviewed and are returning to Anchorage for our review. I understand those docs, generally speaking, are: audited financial statements 1996-2002; tax returns for about the same period of time, including at least some schedules; and insurance documents Nugget provided for 2001, 2002 and 2005. You expect these documents to be returned to Anchorage by tomorrow. You thought there are about 4" of insurance docs and 4-5" of financial statements and tax returns you reviewed.

You indicated those are all the insurance documents Nugget provided from its records, but will check further with Nugget including its insurance broker(s) mentioned and relied on by Mr. Smithson at the last 30(b)(6) depo of Nugget. We have to have all those court-ordered documents and interrogatory and production answers this week, whether we take the continued 30(b)(6) depo next week as originally discussed or even the following week. I reminded you the court also ordered identification of the broker(s) and the opportunity to take their deposition, as part of the 30(b)(6) deposition or otherwise. Please do so right away.

You said that you understand that the post-2002 financials and tax returns are with another attorney in Anchorage but those will be obtained for us soon. I asked that you or your Anchorage office try to do so by Wednesday so that we can look at all the docs at the same time. We at least need them this week.

We also talked about scheduling continuation of the Rule 30(b)(6) deposition. You told me Cliff Terwilliger may be designated to appear at that depo, rather than John Terwilliger, the person Mr. Smithson identified as most knowledgeable on financial issues and, along with the broker, insurance coverage issues. I let you know we will want to take John Terwilliger's deposition anyway, including on those issues, and also Randy Randolph's. I told you Steve Shamburek is intending to notice John Terwilliger's individual deposition to start the morning after continuation of the 30(b)(6) depo, to avoid repeat trips out of consideration of Nugget's concern for Mr. Terwilliger's health also addressed in Judge Holland's January 18 Order. You said you could come up for February 16 next week, but not the next day, a Friday. The Monday following that is President's Day, but you said you could come up after that that week, as long as you were back in Seattle the following Friday for a trip you have to make.

Therefore, we are looking at taking the Nugget 30(b)(6) and John Terwilliger depositions here starting February 16 and continuing or starting them Feb 22-23, and taking Randy Randolph's deposition during the same trip(s). If it is to be one trip, as you prefer, it should be Feb 22-23. You assume your firm will be representing Mr. Randolph at that deposition and will check his availability. You asked that we identify new areas of questioning for him not covered at his deposition in 1998, in order to avoid a possible motion for protective order. I am copying other counsel in the case with this email and that request.

I let you know I talked with Mr. Goodwill who is leaving next week with his family for Mexico and too busy to be deposed before then, but is returning March 13 and can be deposed later that week or the week of March 27. The week of March 20 is Spring Break for the schools up here and Mr. Goodwill, and Mr. Viergutz and I too, are unavailable then.

I told you I had checked with Mr. Shamburek and Mr. Viergutz as to their availability for depositions the next two months. All three of us are available right now the following days: February 16 & 17, but you repeated today you can't be here the 17th; February 22-24 as addressed already above; February 27-28 (and possibly March 1-3; I think Herb said he has some other depositions those three days but I'm not sure --Herb, please advise); the entire week of March 6; March 16; and March 27-28. The chief conflict is other depositions Mr. Viergutz is already scheduled to attend. Looking now at that schedule, it looks like you will want to schedule Mr. Goodwill's deposition for March 16, 27 or 28. Try to give me one of those dates right away, and I will try to confirm it with Mr. Goodwill right away and advise everyone, before he leaves for Mexico. I recommend the 16th or 28th, so he can drive to Anchorage from Seward or we can drive to Seward other than on a weekend. He will insist on it.

Also, looking at that schedule, it becomes clear to me we must be assured we can take the "Nugget" 30(b)(6) and individual depositions either Feb 16 and/or Feb 22-23 as outlined above. Otherwise, we run into time constraints. So please get back to me right away about those dates, including Mr. Randolph's availability, and let us know your availability on the other days too for any other depositions parties may decide to take.

Let me know if I missed anything. Thanks for the call.

- Mike

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